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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,111	01/16/2002	Gianni Collina	US 18026	9340

7590

02/23/2005

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EXAMINER

LU, C CAIXIA

ART UNIT PAPER NUMBER

1713

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,111

Applicant(s)

COLLINA ET AL.

Examiner

Caixia Lu

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) 16-40 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The amendment filed February 4, 2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure and applicants are not allowed to alter the content of the specification unless it is an obvious typographic. However, applicants' amendment to the specification is not obvious.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Govoni et al. (US 5,589,549) in view of Canich et al. (US 6,194,341) for the same rationale as set forth in the previous Office action mailed on November 4, 2004.

Response to Arguments

4. Applicant's arguments filed February 4, 2005 have been fully considered. The rejection of claims 1-15 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in view applicants' amendment. The rejection of claims 1-15 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement are also withdrawn because it is not necessary to support

Art Unit: 1713

the claims with working examples in general. However, the rejection under 35 U.S.C. 103(a) are maintained for the following reasons.

Applicants state that applicants' porous polymer prepared in the presence of a Ziegler catalyst function as the support for the later transition metal catalyst which overcome the shortcomings of lowed catalytic activities and branch-producing tendencies of silica or alumina supported late transition metal catalyst. However, applicants need to provide evidence to support such statement. Furthermore, it is the examiner's position that Govoni's porous olefin polymer prepared by the Ziegler catalyst in the first stage is functioned as a support for the catalyst composition of the second stage polymerization and, thus, provides the same advantages as applicants' porous polymer support.

Applicants argue that Canich teaches away from polymerizing olefins by means of a multistage polymerization process and use of a porous olefinic polymer carrier.

One cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. In re Keller, 208 USPQ 871 (CCPA 1981). The primary reference, Govoni, expressly teaches the multistage polymerization process and the porous polymer prepared by Ziegler catalyst in the first stage to be contacted with the transition metal catalyst in the treatment stage (col. 7, lines 25-54). A skilled artisan would have understood that the porous polyolefin supported transition metal catalyst was formed in the treatment stage. Although Govoni does not expressly teach a late transition metal catalyst in the second stage polymerization, Govoni does generally teach that the multistage process can work with

Art Unit: 1713

different catalyst systems in various stages to prepare a wide range of olefinic polymer compositions (col. 2, lines 38-41). Canich is used as the secondary reference for its teaching of the obvious combination of a Ziegler catalyst and late transition metal catalyst. As the examiner stated in the previous Office action, "Govoni's multistage polymerization process allows individual control of the fractions of polyolefins prepared under each of the catalysts, and, thus, provide more freedom for tailoring the final polymer compositions", the motivation for replace the metallocene catalyst in Govoni's second stage polymerization with the late transition metal catalyst to provide a polyolefin blend with various microstructure does exist.

As discussed during the interview of March 4, 2005, applicants need to provide further evidence show criticality and unexpected results in order to overcome the rejections.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1713

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.
Primary Examiner
February 18, 2005